IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 170 of 1994

Date of decision: 04.12.2007

State of H.P. Appellant

-vs-

Naresh Kumar & another Respondents

Coram

Hon'ble Mr. Justice Surjit Singh, J.

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]?

For the appellant	:	Mr. Som Dutt Vasudeva, Additional Advocate General
For respondent No.1		Mr.Rakesh Kanwar, Advocate.
For respondent No.2		Mr. Sanjeev Bhushan, Advocate

Surjit Singh, J. (oral)

Heard and gone through the record.

Respondents Naresh and Jaggi were sent up for trial for offences punishable under Sections 363 and 366 of the Indian Penal Code, for allegedly kidnapping the prosecutrix, a girl of 15 or 16 years with an intent to force her to marry one of them, namely Naresh Kumar.

Prosecution version, as per report submitted by the Police was that on 25.8.1990, when the prosecutrix, a student of 10th standard in a Government School, was returning home after attending the School, respondent Jaggi met her on the way and allured her that she would be married to the other respondent, namely Naresh Kumar and the latter would pay her Rs. 50,000/- at the time of marriage. The prosecutrix got

[1] Whether reporters of the Local papers are allowed to see the judgment?

tempted. She went to her home, changed her clothes and then joined respondent Jaggi, who was waiting for her at some distance from her house in a Car. The prosecutrix was then driven in that Car. On the way, respondent Naresh Kumar also joined them. The father of the prosecutrix kept on searching for her up to 28th August, 1990 but could not get any clue. On 28.8.1990, he was approached by respondent Jaggi with the offer that he agreed to the marriage of the prosecutrix with respondent Naresh Kumar. When the matter was reported to the Police by Narain Dass (PW3), the father of the prosecutrix, the prosecutrix was recovered from a room at Totu. Respondent Naresh Kumar was also with her in that room. The room was locked from out side. Key of that room was given by respondent Naresh Kumar to the Police through a window of that room.

Trial Court charged and tried the respondents for offences under Section 363 and 366 of the Indian Penal Code. At the end of the trial, both the respondents were acquitted.

We have heard the learned Additional Advocate General and perused the record.

Immediately after being recovered from a room at Totu, the prosecutrix made a statement Exhibit PW2/A to the Police, per which she had been kidnapped, when she was returning from the School by respondent Jaggi who allured her that she would be married to respondent Naresh Kumar and she would be given Rs. 50,000/- in cash at the time of marriage by said Naresh Kumar. She stated that she fell prey to the enticement and returned home, changed her clothes and then joined respondent Jaggi who took her in some Car and on the way, Naresh Kumar also joined them. However, while in the witness box as PW2, she introduced an altogether different story. She stated that respondent Jaggi had no role to play in her kidnapping nor did she ever

meet him and that in fact, on the fateful day, she took leave after recess hour as she was having headache and when she was returning home, she was offered lift by respondent Naresh Kumar and on being told by her that she had taken leave on account of headache, Naresh gave her some tablet and that she thereafter found herself in a room in the company of Naresh Kumar. She stated that she was kept confined in the room by respondent Naresh Kumar, who locked the room from out side. She was confronted with her statement to the Police Exhibit pW2/A. She denied having made such a statement.

In view of the statement made by the prosecutrix in the Court, which is in complete contradiction with the narration given by her to the Police, we do not think this to be a fit case for reversal of the judgment of 0acquittal. Hence the appeal is dismissed.

(Surjit Singh)
Judge.

(Surinder Singh)
Judge.

December 4, 2007.
(bm)